

August 21, 2008

**OFFICE OF THE HEARING EXAMINER
CITY OF RENTON**

Minutes

OWNER for Parcel: #1723059014	City of Renton 1055 S Grady Way Renton, WA 98057
OWNER for Parcel: #1723059179	Washington State Dept of Transportation 15700 Dayton Ave. N Shoreline, WA 98133
APPLICANT:	Seattle Public Utilities (SPU) PO Box 34018 Seattle, WA 98124
CONTACT:	Charles Madden Seattle Public Utilities PO Box 34018 Seattle, WA 98124 SPU Broodstock Facility/Cedar River Access Facility Site Approval and Conditional Use Approval File No.: LUA 08-018, SA-H, CU-A, V-H, SM
LOCATION:	South bank of the Cedar River at river mile 1.7, immediately upstream of the I-405 bridge.
SUMMARY OF REQUEST:	Applicant requested Site Plan Review, Conditional Use, and a Shoreline Substantial Development Permit approval to construct a temporary salmon broodstock collection facility on the Cedar River.
SUMMARY OF ACTION:	Development Services Recommendation: Approve with conditions
DEVELOPMENT SERVICES REPORT:	The Development Services Report was received by the Examiner on August 5, 2008
PUBLIC HEARING:	After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

MINUTES

*The following minutes are a summary of the August 12, 2008 hearing.
The legal record is recorded on CD.*

The hearing opened on Tuesday, August 12, 2008, at 9:00 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<u>Exhibit No. 1:</u> Yellow file containing the original application, proof of posting, proof of publication and other documentation pertinent to this request.	<u>Exhibit No. 2:</u> Neighborhood Detail Map
<u>Exhibit No. 3:</u> Zoning Map	<u>Exhibit No. 4:</u> Comprehensive Plan Land Use Map
<u>Exhibit No. 5:</u> Aerial Photograph	<u>Exhibit No. 6:</u> Colored Display Map (site plan)
<u>Exhibit No. 7:</u> FEIS photographic simulation of weir in river at the I-405 site	<u>Exhibit No. 8:</u> Photographs of weir location
<u>Exhibit No. 9:</u> Buffer Mitigation Layout	<u>Exhibit No. 10:</u> Site Revegetation
<u>Exhibit No. 11:</u> Critical Areas: Steep Slopes and Access Road	<u>Exhibit No. 12:</u> Cedar River Park, photographic simulation after broodstock facility
<u>Exhibit No. 13:</u> Luminaire Schematic	<u>Exhibit No. 14:</u> Preliminary Report to the Hearing Examiner, with changes
<u>Exhibit No. 15:</u> Letter from Charles Madden, SPU, Dated August 8, 2008	<u>Exhibit No. 16:</u> Letter from RCO, dated August 7, 2008

The hearing opened with a presentation of the staff report by Vanessa Dolbee, Associate Planner, Development Services, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The site is located at River Mile 1.7, immediately up stream of the I-405 bridge crossing. The broodstock facility would be located in the Cedar River and on two additional parcels, one owned by the City of Renton and one owned by the Washington State Department of Transportation.

The City of Renton's parcel is zoned Commercial/Office/Residential (COR) and the WSDOT parcel is zoned Resource Conservation (RC). The proposed project would not be consistent with the COR Comprehensive plan Land Use designation. Due to the use of grant monies to purchase the subject property, its potential for development has been restricted to recreational uses. In addition, the size and shape of the property does not provide a site conducive to large-scale office, commercial, retail, and/or multi-family development. The use of the site for a broodstock facility and access point would be most accommodating to the policy.

This project would be a seasonal access point and an area to operate a temporary weir/trap in the Cedar River to collect adult sockeye salmon for the existing hatchery facilities at Landsburg. The applicant is further proposing a ramp area, utilities (water and electric), pathway improvements, interpretive signs, a kiosk, lighting, two temporary trailers, and a viewing area above the weir location. The access roadway would be used from mid-September through mid-December. At which time all components of the broodstock collection facility would be removed. SPU's goal is to trap enough Sockeye to reach the target amount salmon eggs for the hatchery at Landsburg and maintain public access while weir operation is in progress.

The weir is a flexible picket structure that would span the width of the Cedar River. The pickets and spacers are made of plastic and are built in 3-foot by 20-foot panel sections. To accommodate personnel, two portable trailers are purposed to be situated in the gravel area between Narco Road and the Cedar River. A safety cable would span the river to provide employee security when working during high flow conditions.

A SEPA Determination of Significance was issued by the Seattle Public Utilities. A Final Environmental Impact Statement was issued on March 20, 2003 and a Supplemental Environmental Impact Statement was issued July 2005.

Six critical areas have been identified in the area; a Class One stream, Fish and Wildlife Habitat, Steep Slopes, Seismic Hazard Area, Flood Hazard Area, and the project is within the Aquifer Protection Zone 1.

Broodstock collection would be the removal of fish from the Cedar River and place them in the hatchery at Landsburg resulting in a reduction of fish within the Cedar River. The City of Renton has created a salmon spawning channel upstream of the proposed broodstock facility as mitigation for their Hydraulic Permit Approval (HPA). The City of Renton will need to reach an agreement with Washington State Department of Fish and Wildlife (WSDFW) prior to the operation of the broodstock facility due to the possible lack of ability to meet the requirements of the HPA.

This project would permanently impact 717 square feet and temporarily impact 231 square feet of priority habitat area of riparian vegetation within 25 feet of the ordinary high water mark of shoreline. A mitigation plan has been proposed that includes the enhancement of approximately 1,400 square feet of adjacent area. The entire surrounding area would be cleared of invasive weeds and replanted with native species. Approximately 9,950 square feet of additional area would be restored with native trees, shrubs and groundcover.

The subject site is within a 100-year Flood Hazard Area. A Hydraulic Analysis of the potential effects of the weir on the Cedar River was provided, conclusions of this report indicate that the weir is unlikely to have much effect on water surface elevations.

The proposed access road would start at Narco Road and cross the Cedar River Trail at the front edge of a terrace above the river, and then curve down the terrace slope to a lower terrace that is within the active flood plain of the river. The access road would require some grading work.

An archeological report concluded that it would be unlikely that construction of the access road would cause disturbance to intact deposits containing significant prehistoric or historic cultural material.

Review of Site Plan Criteria:

The majority of the project would be within the COR zone. The COR zone does not specifically address the use of broodstock facilities and therefore the Development Services Director determined that the project would be subject to a Hearing Examiner Conditional Use Permit.

The project does not propose any formal landscaping; the applicants have proposed shoreline vegetation enhancement and restoration as part of a mitigation plan.

The subject proposal allows for improved pedestrian access to the Cedar River as well as an access point for SPU's broodstock collection facility. The applicant further proposes to use the existing parking for Narco Park for staff parking and for the temporary trailers.

Potential impacts of the subject proposal to surrounding properties and uses include visual impacts to the Renton Community Center and the activities that take place in the Cedar River Park. The applicant proposes to preserve as many trees as possible along the south bank in addition they are providing additional plantings to mitigate for permanent impacts.

The project is anticipated to enhance area-wide property values and prevent neighborhood deterioration and blight. They are providing public outreach in the form of two interpretive signs and a kiosk with four interpretive panels.

A cap in the weir structure would allow for safe boat passage and other forms of non-motorized watercraft movement over the top of the weir. The weir would have buoys, safety lights and warning signs located in the area. Applicants have further provided a plan for lighting with the use of three light poles. Two of the lights would cast light within the property boundaries and one light would shine out into the Cedar River to illuminate the weir, to aid workers in clearing and/or cleaning the weir of debris at any time of the day. This light would only be used when necessary in order to prevent adverse affects on aquatic life within the Cedar River.

As to Community Need, there are no other broodstock facilities within the City of Renton and the proposed project would benefit the community at large. The staff did recommend that the Conditional Use Permit be limited to a time frame of five years.

Staff reviewed the variance request and concurs that the removal of five trees to provide a broodstock facility and public access facility would serve an established and identified public need. In order to provide appropriate measure to minimize and compensate for unavoidable impacts the applicants have proposed a mitigation plan to include 5-years of maintenance and monitoring.

Charles Madden, SPU, PO Box 34018, Seattle, WA 98124 stated that the broodstock facilities is an integral part of Seattle's habitat conservation plan in the Cedar Sockeye hatchery. The location in Renton was selected because it is far downstream in the river, which allows for genetic diversity in the salmon that are collected.

The proposal has been modified to be of minimal visual and physical footprint with only an access driveway and temporary placement of the weir from mid-September to mid-December. The facility will provide year round public access and during fish collecting activities there will be Fish and Wildlife personnel on site to answer questions and to monitor for safety issues. There will be public information for the weir and more public outreach during the operation of the system.

The weir is of a size that would allow Chinook and Coho to pass without any harm. The Sockeye run was very small this year. They have a quota of eggs that they need to take, when that is reached the trapping will cease. If it is a successful year, the trapping period will be shorter than anticipated.

The weir and ramp will most likely be installed in late 2008 at the latest and in 2009 the facility will be up to full speed and be running as proposed.

Kayren Kittrick, Development Services stated that erosion control would be closely watched.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 9:56 am.

FINDINGS, CONCLUSIONS & RECOMMENDATION

Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. The applicant, Seattle Public Utilities, represented by Charles Madden, filed a request for a Site Plan, Conditional Use Permit and Variance to construct structures both in and along side of the Cedar River.
2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. An Environmental Impact Statement (EIS) was prepared for this project and supplemental analysis also occurred.
4. The subject proposal was reviewed by all departments with an interest in the matter.
5. There was no opposition from the public regarding the subject proposal.
6. The subject site is located at what is known as River Mile 1.7, a measurement from Lake Washington upstream to the proposed location. The site is more generally located just upstream of the I-405 crossing of the river and in the vicinity of the Cedar River Park and Renton Community Center (located off the Maple Valley Highway).
7. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of low density residential uses and commercial, office and residential uses, but does not mandate such development without consideration of other policies of the Plan.
8. Portions of the subject site are owned by the Washington State Department of Transportation (WSDOT) and the City of Renton. Both entities have given permission for the applicant to use their respective portions of the property for the proposed facilities or access roads.
9. The subject site is currently zoned RC (Resource Conservation) and COR (Commercial/Office/Residential). The City of Renton parcel is zoned Commercial/Office/Residential (COR) and the WSDOT parcel is zoned Resource Conservation (RC).
10. The subject site was annexed to the City with the adoption of Ordinance 738 enacted in March 1925.
11. Size of parcel project consists of approximately 0.25 acres. The site is generally vacant although the Cedar River Trail runs parallel to the river through the southerly portions of the area.
12. The south bank of the Cedar in this location is terraced. The upper area supports the trail and the lower portions are overgrown with a mix of native and non-native vegetation. Recreationalists have created a use-trail down to the river through the vegetation. South of this site and the trail is the old Narco site consisting of a gravel parking area, access to the trail and a grassy field.
13. The staff report provides a background basis for installing the proposed facility:

"The Cedar River is SPU's major water supply source, supplying nearly two-thirds of the water delivered to the Seattle service area. In May 2000, Seattle along with State and Federal agencies adopted the Cedar River Habitat Conservation Plan (Cedar HCP), which sets forth a 50-year comprehensive program for managing the Cedar River watershed to protect and enhance habitat for threatened and endangered species. Subsequently, Seattle obtained Incidental Take Permits, from the U.S. Fish and Wildlife Service and National Marine Fisheries Service, for its water supply and related activities in the Cedar River watershed. The Cedar HCP called for several specific actions to address impacts to fish resulting from Seattle's water supply intake and diversion dam created at Landsburg. One of which included a Cedar River Sockeye Hatchery Project capable of producing up to 34 million sockeye fry. In order for the Hatchery to meet its goal of 34 million fry, SPU has proposed the subject broodstock facility."

The staff report goes on to describe another obligation to operate a hatchery.

"In addition, the applicant has stated, under the Landsburg Mitigation Agreement with the State of Washington, the Muckleshoot Tribe and federal agencies, SPU has committed to operate a sockeye hatchery on the Cedar River and build new facilities in response to State concerns over the blockage of the Cedar River to sockeye above the Landsburg Dam (Exhibit 37). One of the key facilities necessary to meet these goals is the broodstock collection facility. The existing facility is too far upstream and is not structurally sound during high flow conditions and collection must be terminated prior to the end of the sockeye run, compromising biological and production goals. The new design is capable of withstanding higher flows, which would allow SPU to extend the collection period to the end of the sockeye run (approximately mid-December). "

14. The facility would be in operation during Sockeye salmon runs from approximately mid-September to mid-December. The facility would consist of the in-river weir, a fence-like structure, a collection-trap facility, a live-in trailer (manned 24-hours per day), a utility trailer, a safety cable across the river and access roads to these facilities. Informational signs and a kiosk as well as a viewing area would be located adjacent to the facility and along the north side bank near the Community Center. A permanent metal-plate footing for attaching the weir would be placed in the bed of the river and that footing along with the access roadway and informational features will be the only permanent features. All the other equipment, including the trailers, cable and weir would be removed after the December time period and redeployed again the next September.
15. Other salmon species would be allowed to pass through, as the only species intended to be harvested for the broodstock will be the Sockeye.
16. The weir will be both flexible and submersible. It is a picket structure that will span across the entire channel. The weir is composed of pickets and spacers in 2-foot by 20-foot sections. They are secured to cables attached to the metal plate in the river. They are expected to allow downstream activities without impeding boats or debris and will bend out of the way (in a downstream direction) during heavy river flows during flood or storm events. Traps can be moved across the river and stationed

appropriately depending on river flow and fish patterns. There is a safety cable suspended approximately 6 feet above the river to enable employees to move safely back and forth across the river in normal and flood conditions. There will also be holding pens to temporarily store fish between hauling times. This weir design has been used successfully in other areas and has withstood very high river flows.

17. There will be one or two traps. They will be able to be opened to allow all fish to pass through or closed to capture the Sockeye necessary to accomplish the goals of the project. The project expects that it would need to capture approximately 20,000 fish for the broodstock goals. It is anticipated that less than 50% of the run would be captured.
18. The trailer that will house employees will be 28 feet long. The second trailer would be used for equipment, clothes, and refuse and recycling. The trailers would be placed on the gravel pad between the Narco Road and the river.
19. Water and electricity will be run to the site for domestic purposes and to serve the general public. The trailer housing employees will be equipped with a sewer holding tank, as no sewer lines will be extended to this location. The tanks will be emptied as necessary. Electricity would also power lights intended to accommodate night operations as well as general lighting.
20. There would be a ramp down to the river to allow a hauling truck to be loaded with fish for transport up river to a separate hatchery. The ramp will also be available to the general public for launching boats when there is no conflict. The ramp will not allow vehicular access to the river for the general public. It is intended to allow smaller personal watercraft to be moved down to the shoreline. The roadway or probably more accurately, driveway will be constructed to the high water mark but not beyond or below that demarcation.
21. Fish will be hauled to the Landsburg hatchery. Fish collection will generally occur during the hours from 7:30 a.m. to 5:00 p.m. While hauling occurs at least one person will remain on the site. Transport will occur approximately 3 or 4 times per day as necessary.
22. This location, relatively close to the lake, was chosen because it offers the ability to collect a larger or better representative sample of returning salmon than locations further upriver. The existing upstream facility does not provide a good opportunity for representative collection and it is not structurally sound.
23. This facility will divert salmon before they reach City of Renton spawning channels that are further upstream. Those spawning channels were also a mitigation requirement for a City dredge project along the river (Hydraulic Permit Approval #G1503-1). At this time, no one is sure how this new weir might affect fish behavior and or fish collection on the City's spawning project. The City will need agreements with the appropriate agencies about the consequences of this facility on their requirements.
24. There will be warning signs above the weir for recreationalists using the river in boats, inner tubes or other means.
25. The river is a Class 1 stream. It is designated as an Urban Shoreline Environment under the City's Shoreline Master Program. The purpose of the urban designation is to allow public access and development that encourages and enhances that access including access from industrial and commercial facilities. As noted, the project will allow access and permit water launching from an area of the proposal. There is no specific buffer for this particular river corridor. The applicant will be working within 25 feet of the river and approximately 717 square feet of "priority habit area" riparian vegetation

will be affected. The applicant will be mitigating that impact by enhancement of approximately 1,400 square feet of an adjacent area. Additionally, to avoid reinvasion by non-native plants, a larger area of approximately 9,950 square feet of vegetation will be cleared and replaced by native species. There will be five (5) years of monitoring of the effort.

26. As noted, the subject site contains a mix of native and invasive plants. A survey found 12 trees of 6-inch caliper or larger. Five of these trees would be removed and three of those are within 25 feet of the river. All trees that would be removed would be replaced at a 2:1 ratio. All trees to be retained would be protected during construction. Replacement trees would include 8 Black Cottonwood, 3 Sitka Spruce, 8 Douglas Fir and 10 Western Red Cedar. The removal of trees within a critical area would require a variance from the Critical Areas Regulations. (Section 4-4-130D.2.a)
27. The City's parcel was purchased with funds that restrict the use of the property. The agency that assures compliance with the funding terms has approved the use of a portion of the property for this use but will be monitoring continued compliance with terms of the funding.
28. The access road would begin at the Narco Road and cross the Cedar River Trail, curve down from the upper terrace to the lower terrace. The lower terrace is within the active flood plain of the river. Grading will require the excavation of approximately 330 cubic yards of material. The access road will avoid any protected slopes within the vicinity although some sloughing is anticipated. If any instability occurs during construction, additional measures and monitoring will be undertaken. While the road is constructed a detour will be provided on the Cedar River Trail to assist users around the construction site.
29. There will be construction traffic but minimal traffic when the project is in operation. There are the estimated four transport trips and then trips for supplies and removal of sanitary waste.
30. The proposed project appears to be within the 100-year flood level. A hydraulic analysis indicates that the weir should not interfere with most normal storm events. The applicant proposes removing the weir when large flood events are anticipated. This protocol will assure that the proposal will not exacerbate flooding.
31. The applicant analyzed the erosion potential of the site and noted that a review of similar weirs in California and Alaska did not show evidence of erosion or channel scouring. The applicant proposes monitoring and will act to remove features that might change the geomorphology of the river.
32. The applicant will also provide informational signs on the Community Center side of the river about salmon in the Cedar River and about the sockeye hatchery program. A kiosk would be placed on the project side of the Cedar River adjacent to the Cedar River Trail to provide information about the project.
33. An archeological survey occurred since the site along the Cedar was used in prehistoric times for food and possible habitation near the mouth of the Cedar River Valley. No prehistoric cultural material was found during the survey. Remnants of the Narco use were found but were not significant. The site will be monitored as the road is developed and the applicant will take appropriate measures to protect any archeological finds and notify officials.
34. Since it was unclear if the proposed use was compatible with the underlying zoning for the two parcels, an administrative review was done. The Zoning Code does permit public projects that are compatible with the comprehensive plan. An Administrative Determination found that the facility is similar to

resource extraction and recovery. Those uses, resource extraction and/or recovery do require a review under the Conditional Use Permit criteria.

CONCLUSIONS:

Critical Areas Variance - Tree Cutting

1. Section 4-9-250B.10 provides the ten criteria for evaluating a request for a variance from the Critical Areas regulations. These include the following:
 - (1) Public policies have been evaluated and it has been determined by the Department Administrator that the public's health, safety, and welfare is best served:
 - (2) Each facility must conform to the Comprehensive Land Use Plan and with any adopted public programs and policies:
 - (3) Each facility must serve established, identified public needs:
 - (4) No practical alternative exists to meet the needs:
 - (5) The proposed action takes affirmative and appropriate measures to minimize and compensate for unavoidable impacts:
 - (6) The proposed activity results in no net loss of regulated wetland or stream/lake area, value, or function in the drainage basin where the wetland, stream or lake is located:
 - (7) The proposed activities would not jeopardize the continued existence of endangered, threatened or sensitive species as listed by the Federal government or the State:
 - (8) That the proposed activities would not cause significant degradation of groundwater or surface water quality:
 - (9) The approval as determined by the Hearing Examiner is a minimum variance that would accomplish the desired purpose:
 - (10) The proposed variance is based on consideration of the best available science as described in WAC 365-195-905:
2. There do not seem to be any elements of the proposal that would seriously affect the public health, safety or welfare. The major concerns in this regard would be the safety of river users, such as boaters and the like who might pass under the safety cable and across the weir structure. It appears that consideration has been taken to monitor river flow and remove impediments if the flow might affect safety, including removal of the weir and safety cable. The analysis done for the proposal shows that the structures should not exacerbate flood conditions.
3. The comprehensive plan policies suggest office, commercial or residential uses and also low density residential uses. But the plan also recognizes the need for public facilities in zones governed by those policies. Clearly, the use is fairly unique and can only be located in an area adjacent to and actually in the Cedar River. The plan's environmental policies are probably more on point allowing and encouraging fisheries resources (Policy EN-53) and recreational uses of the river. While some trees will yield to development of the complex, more will be planted and invasive species replaced with native specimens. The proximity of the proposed facility to I-405 and the Community Center suggests that it is already an area that is less than natural so that the facility will not be all that intrusive. The less intense uses begin just a bit further upstream in this area.
4. The proposed facility is intended to enhance salmon runs and recovery, which is an identified goal in the Puget Sound basin. The facility is designed to trap salmon and broodstock for populating an upstream

hatchery. Policy EN-53 specifically states: "*Re-establish self-sustaining fisheries resources in appropriate rivers and creeks through encouragement of hatcheries and salmonid use.*"

5. The location was chosen to capture a wider genetic population before it disperses upstream of this site. The site, as noted, is fairly urban, with I-405 and the Community Center, so that the trailers and weir would not be located in a more natural area. The site also necessitated the removal of fewer trees than in other locations, although, five trees will be removed.
6. The development of any facility that needs a riverside and in-river location has to have some impacts that are unavoidable. The project has been planned to minimize any untoward impacts. There will be compensation for the loss of the five trees and other riparian vegetation (not all native) that are removed including new trees, native growth enhancement and access to the river for the general public.
7. The applicant will not be reducing wetland area or the river corridor with this project. The river value appears to be preserved and if the salmon enhancement program works, could increase salmon numbers.
8. The proposed activity is actually intended to aid salmon recovery efforts and compensate for the upstream dam and damage it caused or causes. The loss of five trees will have minimal, if any impact, on endangered or threatened species.
9. The proposed weir and accessory structures should not cause any significant degrading of groundwater or surface water. Again, the in-river weir will obviously have an effect on the river and its users in this area but they are intended to be minimal and for a limited, approximately three month window in the Fall of each year.
10. The variance to remove five trees to permit access to the river and the proposal's fish traps seems like the near minimum variance necessary. Other locations either involved sensitive slopes or a greater number of trees.
11. The proposal has undergone environmental review during the preparation of an EIS and more current, specific studies of the hydraulics, erosion and vegetation indicate that the proposal is appropriately sited and designed. In addition, monitoring will enable the applicant and others to modify the operations if that becomes necessary.

Site Plan Review

12. The site plan ordinance provides a number of specific criteria for reviewing a site plan. Those criteria are generally represented in part by the following enumeration:
 - a. Conformance with the Comprehensive Plan;
 - b. Conformance with the Building and Zoning Codes;
 - c. Mitigation of impacts on surrounding properties and uses;
 - d. Mitigation of the impacts of the proposal on the subject site itself;
 - e. Conservation of property values;
 - f. Provision for safe and efficient vehicle and pedestrian circulation;
 - g. Provision of adequate light and air;
 - h. Adequacy of public services to accommodate the proposed use;

The proposed use satisfies these and other particulars of the ordinance.

13. As noted, the shoreline of the Cedar River in this location is actually designated for a mix of uses including commercial, office and residential uses. Those are probably not the most appropriate for this shoreline area and as the property is owned by governmental agencies unlikely to be developed here. The comprehensive plan does contain policies and goals aimed at achieving environmental and recreational outcomes more suited to this property. The proposal fulfills those less commercial goals of the comprehensive plan.
14. The facilities appear appropriate for the zones involved in this case. The two trailers are temporary and low-rise. The access road will be as short as possible as it crosses the less intense RC Zone. The Zoning Code does permit public projects that are compatible with the comprehensive plan. In addition, an Administrative Determination found that the facility is similar to resource extraction and recovery. As noted above, that determination made the project subject to Conditional Use Permit review (which follows). The size and scale of the project does not really affect density, height or lot coverage. Setbacks are subject to site plan review and appear appropriate.
15. Although, there are intrusive elements, none of those elements or impacts appear untoward, the weir itself should not have much impact on surrounding properties. It will be in the river but have a low profile, almost river level profile. The traps and trailers will be more visible, particularly from the Community Center and its lawn area. At the same time, I-405 probably dominates the view, as it is located just west of the proposal. There may be some impacts on the trail, as vehicles will cross it a few times each day.
16. The applicant has proposed as minimal a complex as possible while still allowing the project to accomplish its purpose. The project must be in the river to harvest fish.
17. The facilities and properties in the area are generally all publicly owned or operated so there should be no discernable impact on property values. The proposal's overall modest footprint and size should not have an appreciable affect in any event. It will not take any private property off the tax rolls.
18. There will not be a substantial amount of vehicular traffic to and from the facility. Generally, the four trips to transport the salmon and the trips by the resident-employees for supplies. Cedar River Trail pedestrian and bicycle traffic will pass by the site and across the access roadway. It does not appear that significant conflicts will occur. There will be signs to caution users. River traffic is also accommodated by the design of the weir, which will pass downstream objects as well as swimmers and other recreationalists. There will be warning signs along the river and the applicant has assured the City it will monitor the situation constantly to avoid or address any safety problems. There is still some concern about the safety cable and river users and staff has recommended a condition requiring a safety management plan.
19. The structures proposed for the subject site are all relatively small and low and should allow for adequate light and air to enter the site. The structures should not create undue shadow or shade. Lighting on the site will be avoided except when needed for any nighttime maintenance or safety.
20. There will be construction noise and dust but that will end and the operation should not create long-term noise impacts.
21. The site will have domestic water and power but no sanitary sewer lines. Tanks will contain waste that will be collected as necessary. It is not clear if the trailers will be constructed on pads that provide containment in case of a spill of either sewerage or materials or other liquids kept in the storage trailer. It would appear appropriate to design the trailer pads to provide containment adequate to control

accidental spills.

22. The development should not cause any neighborhood deterioration or blight. The complex is relatively small, generally self-contained and will enhance salmon preservation efforts and educate the public at the same time.

Conditional Use Permit

23. The applicant, for a Conditional Use Permit must demonstrate that the use is in the public interest, will not impair the health, safety or welfare of the general public and is in compliance with the criteria found in Section 4-9-030 (G), which provides in part that:
 - a. The proposal generally conforms with the Comprehensive Plan;
 - b. There is a general community need for the proposed use at the proposed location;
 - c. There will be no undue impacts on adjacent property;
 - d. The proposed use is compatible in scale with the adjacent residential uses, if any;
 - e. Parking, unless otherwise permitted, will not occur in the required yards;
 - f. Traffic and pedestrian circulation will be safe and adequate for the proposed project;
 - g. Noise, light and glare will not cause an adverse affect on neighboring property;
 - h. Landscaping shall be sufficient to buffer the use from rights-of-way and neighboring property where appropriate; and
 - i. Adequate public services are available to serve the proposal.

The requested conditional use appears justified.

24. Some of these criteria overlap those already reviewed. The use is compatible with comprehensive plan, there should be no adverse impacts on adjacent property, traffic and pedestrian circulation is safe and adequate, there should be no adverse lighting or glare impacts and adequate public services are available.
25. Salmon enhancement and mitigation for dams and river changes are goals for the region and for those who have disrupted salmon migration with other public improvements such as domestic water supplies and to prevent flooding. The proposed location, as discussed above, was selected after reviewing various criteria including intercepting a wide genetic salmon population and doing it in a suitable location along the river. The proposed location serves both of those purposes. It is near the lake and salmon have not dispersed into a variety of streams or channels. The immediate area has a range of more urban uses and the inclusion of the complex will not unduly change a more rural riparian environment. Other than the need to remove five trees in the riparian environment, there are no other critical resources, other than the river itself, such as protected slopes or wetlands to disturb.
26. There are no nearby residential uses that would be affected by either the operation of the complex or the scale of the complex.

27. The applicant will mitigate the tree loss and other vegetation removal for grading by more than two-fold and replant native vegetation to replace invasive or non-native vegetation. The proposed use will be buffered as well as possible with the new and existing landscaping but the fish traps, while in the water will be visible and the weir will run across the river channel. Certain aspects, clearly, cannot be screened completely and allow the project to accomplish its purpose.
28. In conclusion, the proposal appears to be well-planned, scoped by many agencies and interest groups and while not transparent and requiring development in and near the river and its riparian zone, a reasonable proposal that should be approved, albeit, subject to the conditions found below.

DECISION:

The Site Plan Review, Conditional Use Permit and the Variance are approved subject to the following conditions:

1. The applicants shall successfully complete a memorandum of agreement (MOA) between SPU and the City of Renton for the management and use of City property. The MOA shall be reviewed for approval by the City of Renton Attorney and signed by the Mayor or authorized representative prior to the 2009 operation of the broodstock facility.
2. Site Construction (anticipated to be approximately two months) shall not interfere or hinder City sponsored public events planed along the subject portion of the Cedar River Trail, including but not limited to Renton River Days and the Candy Cane Fun Run.
3. If the construction of the access road causes slope instability or erosion. The applicant shall provide a slope enhancement and restoration plan approved by the City of Renton Department of Community & Economic Development, Planning Division project manager. A maintenance and monitoring plan for the approved enhancement and restoration plan would also be required.
4. The applicants shall be required to adhere to the provided Cedar River Access Facility Management Plan, dated July 30, 2008.
5. This Conditional Use Approval is valid for a period of five years. Prior to expiration the applicant shall provide the city with a written request for the subject Conditional Use Permit to be reviewed by the decision maker to determined if changes are warranted and/or if the agreement can be extended an additional five years.
6. Prior to operation of the broodstock facility an agreement between the Washington State Department of Fish and Wildlife (WDFW) and the City of Renton shall be achieved as to resolve the concerns of SPU's proposed broodstock facility on the City's ability to meet the requirements of the Hydraulic Permit Approval #G1503-1 (Cedar River Section 205 Flood Hazard Reduction project).
7. The applicant shall be required to provide a safety management plan to be reviewed for approval by the City of Renton's Human Resources/Risk Management department prior to the 2009 operation of the broodstock facility.
8. Applicant shall be responsible for the maintenance and/or replacement of all proposed public outreach information signs and kiosk.

9. Applicant shall successfully obtain an access easements from the City of Renton prior to operation of the broodstock facility.
10. If any Native American grave(s) or archaeological/cultural resources (Indian artifacts) are found all construction activity shall stop and the owner/developer shall immediately notify the City of Renton planning department, concerned Tribes cultural committees, and the Washington State Department of Archeological and Historic Preservation.
11. The applicant shall be required to comply with the recommendations and five-year maintenance and monitoring plan as proposed by Tetra Tech and the Watershed Company pages L1-L5 of the permit set.
12. The applicant shall design the trailer pads to provide containment adequate to control accidental spills of sewerage or other materials found in the trailers.

ORDERED THIS 21st day of August 2008.

FRED J. KAUFMAN
HEARING EXAMINER

TRANSMITTED THIS 21st day of August 2008 to the following:

Mayor Denis Law	Dave Pargas, Fire
Jay Covington, Chief Administrative Officer	Larry Meckling, Building Official
Julia Medzegian, Council Liaison	Planning Commission
Marty Wine, Assistant CAO	Transportation Division
Gregg Zimmerman, PBPW Administrator	Utilities Division
Alex Pietsch, Economic Development	Neil Watts, Development Services
Jennifer Henning, Development Services	Janet Conklin, Development Services
Stacy Tucker, Development Services	Renton Reporter

Pursuant to Title IV, Chapter 8, Section 100G of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., September 4, 2008.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., September 4, 2008.**

If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.

The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.